

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

NUANCE COMMUNICATIONS, INC.,

Plaintiff,

v.

VLINGO CORP.

Defendant.

Case No. 5:08-cv-102

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiff Nuance Communications, Inc. ("Nuance") alleges as follows:

I.

NATURE OF THE ACTION

1. This is an action arising under the patent laws of the United States (35 U.S.C. §271 et seq.) based upon infringement by Defendant Vlingo Corp. ("Vlingo") of patents owned by Nuance and relating generally to the field of voice recognition products and services. Nuance seeks damages for Vlingo's infringement and a permanent injunction restraining Vlingo from further infringement.

II.

THE PARTIES

2. Plaintiff Nuance is a Delaware corporation incorporated under the laws of the State of Delaware. Nuance's principal place of business is at 1 Wayside Road, Burlington, MA, 01803.

3. Upon information and belief, Vlingo Corp., is a Massachusetts corporation incorporated under the laws of the Commonwealth of Massachusetts, with its principal place of business located at 17 Dunster Street, Cambridge, MA, 02138.

III.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

5. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 1338(a). The Court has personal jurisdiction over Defendant because it infringes Plaintiff's patent by offering infringing products to users and/or customers who reside in, and may be found in, the Eastern District of Texas, including via websites accessible in the district. Further, users have actually used Defendant's product in the Eastern District of Texas.

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b) because Vlingo has, among other things, committed infringing acts in this district and does business in this district generally.

IV.

FIRST CLAIM FOR RELIEF

(INFRINGEMENT OF THE '295 PATENT)

7. The allegations of paragraphs 1-6 are incorporated herein by reference.

8. Nuance is the sole owner of United States Patent No. 6,766,295 ("the '295 Patent"), entitled "Adaptation Of A Speech Recognition System Across Multiple Remote Sessions With A Speaker." The '295 Patent was duly and legally issued by the United States Patent and Trademark Office ("PTO") on July 20, 2004 to Hy Murveit and Ashvin Kannan and

was assigned to Nuance Communications (a California corporation). The patent was subsequently assigned to Nuance Communications, Inc. (a Delaware corporation). A copy of the '295 Patent is attached hereto as Exhibit A.

9. On information and belief, Vlingo has been and currently is infringing, contributing to the infringement of, and/or inducing the infringement of the '295 Patent by, among other things, making, using, selling, and/or offering to sell, within the territorial boundaries of the United States, products and services that are covered by one or more claims of the '295 Patent, including without limitation products and services that adapt a speech recognition system across multiple remote sessions with a speaker. Such products and services include, without limitation, the products and services Vlingo is supplying to Yahoo! oneSearch.

10. On information and belief, Vlingo's infringement of the '295 Patent has been and is willful, and will continue unless enjoined by this Court. Nuance has suffered, and will continue to suffer, irreparable injury as a result of this willful infringement. Pursuant to 35 U.S.C. § 284, Nuance is entitled to damages for infringement and treble damages. Pursuant to 35 U.S.C. § 283, Nuance is entitled to a permanent injunction against further infringement.

11. This case is exceptional and, therefore, Plaintiff is entitled to attorneys' fees pursuant to 35 U.S.C. § 285.

V.

PRAYER FOR RELIEF

12. That Vlingo be adjudged to have infringed the '295 Patent;

13. That Vlingo, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with any of them, be preliminarily and permanently restrained and enjoined from infringing in any manner the '295 Patent;

14. An accounting for damages by virtue of Vlingo's infringement of the '295 Patent;
15. An assessment of pre-judgment and post-judgment interest and costs against Vlingo, together with an award of such interest and costs, in accordance with 35 U.S.C. § 284;
16. That Vlingo be directed to pay Plaintiffs' attorney fees incurred in connection with this lawsuit pursuant to 35 U.S.C. § 285; and
17. That Plaintiffs have such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiffs hereby demand a jury trial for this action.

Dated: June 16, 2008

By:

/s/ Eric H. Findlay

Eric H. Findlay (Lead Attorney)

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